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EXAMINER

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2194

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DETAILED ACTION

1. This is the initial office action for Application# **10/501,952** filed on **21 July 2004**.

Claims 24-45 are currently pending and have been considered below.

Claim Objections

2. **Claims 24-45** are objected to because of the following informalities: since claims should be phrased in the form of full, grammatically correct sentences, each claim should begin with an article (e.g. "a" or "the"). Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 31 and 40** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. As per **Claim 31**, this claim recites the negative limitation of "the broadcasting positions do not form a series". This limitation renders the claim indefinite in that it does not clearly define in the state of the positions of the drop-down list.

6. As per **Claim 40**, the final limitation currently reads, "characterized in that it..." without clearly stating what "it" refers to. From the claim most closely matching the

limitations of **Claim 40**, **Claim 24**, it appears as though the referenced "it" is the broadcast engine.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. **Claims 24-39** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

9. The current position of the Patent Office in regard to statutory inventions under 35 U.S.C. § 101 for method claims and claims that recite a judicial exception (software) is that the claimed invention recite a practical application. Practical application can be provided by a physical transformation or a useful, concrete and tangible result.

10. As per **Claim 24**, no physical transformation is recited and additionally, the final result of the claim is a system of a client and a broadcast comprising various software components, which is not a tangible result because the entire system consists of software *per se*. Software *per se*, lacking an requisite physical components, is incapable of producing a physical transformation or tangible result.

11. As per **Claims 25-39**, being dependent on **Claim 24** and failing to correct the deficiencies of said claim, they are rejected for the same reasoning as provided for **Claim 24**.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claims 24-26, 28-37, and 40-45** are rejected under 35 U.S.C. 103(a) as being unpatentable over Barker et al (US PGPub: 2001/0023429), hereafter Barker in view of Java ("Java 2 Platform SE v1.3.1: Class JComboBox". 2001. Sun Microsystems, Inc. Accessed 02 April 2007. java.sun.com/j2se/1.3/docs/api/javax/swing/JComboBox.html).

14. As per **Claim 24**, Barker teaches the invention substantially as claimed including a media broadcasting system comprising:

a) at least one client application and a broadcasting engine (para. [0020] – [0030]) (The publishing and broadcast elements meet this claim limitation);

b) the client application comprising:

i) generating means for generating at least one drop-down list, this drop-down list comprising at least one media object intended for broadcasting ([0022]-[0025]) (The catalogue contains a listing of all of the media available for access and the requirements (i.e. drivers, start times, etc.) for accessing the data, thereby meeting this claim limitation),

ii) transmission means for transmitting the drop-down list to the broadcasting engine (32, Fig. 2),

c) the broadcasting engine comprising:

i) a broadcasting session comprising a management module capable of receiving the drop-down list coming from the client application and of inserting that drop-down list in a main list comprising a plurality of drop-down lists, and a broadcasting module capable of broadcasting the content of that main list by means of a media broadcasting device (para. [0027] – [0032]),

ii) a supervision module for authenticating a client application wishing to access the broadcasting engine and for opening at least one broadcasting session if appropriate (para. [0035] and [0036]);

d) characterized in that the broadcasting engine comprises a reference clock for synchronizing all of the components of the broadcasting engine (para. [0029] and [0040]-[0045]) (The scheduling of timeslots for programming would inherently require a primary time reference to allow for the content to be sent at the appropriate time thereby meeting this claim limitation), and

e) in that the first media object in the drop-down list contains an absolute start time corresponding to the time of its broadcasting, this absolute start time being a number of microseconds obtained with respect to a predetermined time origin (para. [0029] and [0040]-[0045]).

15. Barker does not explicitly teach the use of a drop-down menu.

16. Java teaches the use of drop-down menus in which objects can be stored (pg. 1, para. 1) (The JComboBox meets this claim limitation).

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17. One of ordinary skill in the art at the time invention would have been motivated to modify the broadcast system disclosed by Barker with the teachings of Java. One would have been motivated by the need to display the listing of content choices in a manner that would allow users to easily navigate said choices and make a selection (Barker; para. [0025], [0029] and [0049]).

18. As per **Claim 25**, Barker further teaches wherein the broadcasting engine and the client application are disposed in two separate processing units communicating according to a communication protocol for communication networks such as the Internet, protocol (IP) (para. [0016], [0030], and [0048]).

19. As per **Claim 26**, Barker further teaches wherein the broadcasting engine comprises means for opening a plurality of different broadcasting sessions, each one being dedicated to a predetermined type of media (para. [0008] and [0019]) (The system allows access to audio, video, and data streams, thereby meeting this claim limitation).

20. As per **Claim 28**, Barker further teaches wherein the management module comprises means for determining the duration of each media object and the absolute start time of that media object (para. [0029]-[0032]) (The scheduling of the services meets this claim limitation).

21. As per **Claim 29**, Java further teaches wherein each media object comprises a numerical value corresponding to its broadcasting position within the drop-down list (pg. 4) (The "insertItemAt()" method allows the programmer to decide where in the drop-down list the item should be added, with that inputted number serving as the corresponding numerical value for that position).

22. As per **Claim 30**, Java further teaches wherein each numerical value is a floating point number (pg. 4) (The "insertItemAt()" method takes an integer as the position parameter. Since integers are a species of floating point number, the use of integers meets this claim limitation).

23. As per **Claim 31**, Java further teaches wherein, for a drop-down list comprising a plurality of media objects, the numerical values corresponding to the broadcasting positions do not form a series .

24. As per **Claim 32**, Java further teaches wherein each drop-down list comprises a unique identification number (pg.7) (The "hashCode()" method generates a unique identifier for the JComboBox, thereby meeting this claim limitation).

25. As per **Claim 33**, Barker further teaches wherein the broadcasting session comprises means for encoding any media object according to a predetermined broadcasting standard (para. [0030] and [0047]).

26. As per **Claim 34**, Barker further teaches wherein the management module comprises means for substituting all or part of a media object in the main list by another media object (para. [0028]) (The ability to have schedule broadcasts that were not originally planned meets this claim limitation).

27. As per **Claim 35**, Barker further teaches wherein the broadcasting engine comprises a list of drivers from which the client application chooses a driver according to the media object contained in the drop-down list transmitted to the broadcasting engine (para. [0008] and [0019]) (Since selecting either an audio or video broadcast would inherently require the drivers for those particular broadcast devices to be used for their transmission, the selection of said broadcasts meets this claim limitation).

28. As per **Claims 36 and 37**, these claims are rejected for the same reasoning as applied to **Claim 35** above.

29. As per **Claim 40**, being directed to the method performed by the system of **Claim 24**, this claim is rejected for the same reasoning as provided for **Claim 24** above.

30. As per **Claims 41-45**, this claim is rejected for the same reasoning as applied to **Claim 40**.

31. **Claim 27** is rejected under 35 U.S.C. 103(a) as being unpatentable over Barker in view of Java and in further view of Willie et al (US Pat: 6,094,672), hereafter Willie.

32. As per **Claim 27**, Willie teaches wherein the predetermined time origin is the first of January of a given year, and the absolute start time is an integer in 64 bits (Col. 8, lines 35-45).

33. It would have been obvious to one of ordinary skill in the art to modify the system disclosed by Barker with the teachings of Willie. One would have been motivated by the need to record times in a highly precise manner for the purposes of accounting and synchronization of the broadcasts being sent to client computers (Willie; Col. 3, lines 8-24 and Barker; para. [0019]).

34. **Claim 38** is rejected under 35 U.S.C. 103(a) as being unpatentable over Barker in view of Java and in further view of Craven et al (US Pat: 5,339,741), hereafter Craven.

35. As per **Claim 38**, while Barker does not explicitly teach it, Craven discloses wherein the supervision module comprises means capable of opening a broadcasting session associated with a broadcasting device consisting of a fireworks transmitter (Col. 4, line 58 – Col. 5, line 5).

36. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the system disclosed by Barker with the teachings of Craven. Since

Barker discloses audio and video are already controlled and broadcast within the system, it would be obvious to extend this control and ability to broadcast information about any multimedia device (Barker; para. [0009], [0018] and [0022])

37. **Claim 39** is rejected under 35 U.S.C. 103(a) as being unpatentable over Barker in view of Java and in further view of Troyer (US PGPub: 2001/0046033).

38. As per **Claim 39**, while Barker does not explicitly teach it, Troyer teaches wherein the supervision module comprises means capable of opening a broadcasting session associated with a broadcasting device consisting of a laser projector (para. [0110], [0204], and [0206]).

39. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Barker with the teachings of Troyer. One would have been motivated by the need to produce video images of necessary quality to be properly displayed on all media devices, including projectors (Troyer; para. [0204] and Barker; para. [0009] and [0018]).

Conclusion

40. The prior art made of record on the P.T.O. 892 that has not relied upon is considered pertinent to applicant's disclosure. Careful consideration of the cited art is required prior to responding to this Office Action, see 37 C.F.R. 1.111(c).

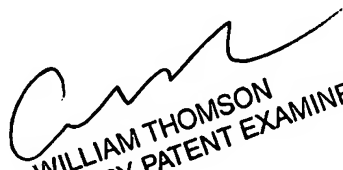
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Pantoliano Jr whose telephone number is (571) 270-1049. The examiner can normally be reached on Monday-Thursday, 8am - 4 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571)272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RP
4/2/07


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